

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

ROBERT "BOB" BURNS - Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MÁRQUEZ PETERSON

In the matter of:)	DOCKET NO. S-21129A-20-0332
ROBERT FRANCIS ALEXANDER, a single)	TEMPORARY ORDER TO CEASE AND DESIST AND NOTICE OF OPPORTUNITY FOR HEARING
man,)	
Respondent.)	
)	

NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY
EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondent Robert Francis Alexander is engaging in or is about to engage in acts and practices that constitute violations of A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare requires immediate action.

I.
JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.
RESPONDENT

2. Robert Francis Alexander ("Alexander") was at all relevant times a resident of Arizona. Alexander may be referred to as "Respondent."

III.

FACTS

Alexander's Golf Ball Resale Business

3. From at least June 2018 to present, Alexander offered and sold securities in the form of investment contracts, purportedly to fund his golf ball resale business.

4. Alexander is an avid golfer and belongs to several Phoenix-area golf clubs. While on the golf course and at club events, Alexander pitches his golf ball resale business. Alexander explains to potential investors that he purchases golf balls at a discount from a friend and resells the balls for a profit on websites such as golfballs.com. Occasionally, Alexander resells other golf-related items, such as range finders. Alexander also frequents local bars and restaurants and pitches his golf ball resale business to other patrons.

5. After explaining his business to an individual, Alexander solicits them to invest in his golf ball resale business deals. Alexander induces investors to invest by telling them they will make between 20% - 30% return on their investment in a short time frame, usually around 4 – 6 weeks.

6. Based on information and belief, Alexander is continuing to solicit investments in his business, both from previous investors and new investors.

Investors in Alexander's Business

7. During the relevant time period, Alexander sold investment contracts to at least ten investors, totaling at least \$382,100. Alexander told investors their investment would be used to purchase golf balls to resell online.

8. While soliciting investments, Alexander represented to at least some investors that he does these deals all the time and they were a sure thing. Alexander told at least some investors they could not lose their money. Alexander presented himself to investors as a successful businessman through his memberships in various golf clubs, driving a 2020 Lexus, and living in an affluent neighborhood in Scottsdale, AZ.

1 9. Alexander gave some investors bank account information to wire their investment.
2 Other investors gave Alexander their investments via check or cash.

3 10. At least one investor received a promissory note in exchange for his investment; the
4 majority of investors did not receive any documentation in exchange for their investment.

5 11. Alexander continued to solicit additional investments from at least some investors
6 after their initial investment, some prior to the expected maturity date of the original investment. At
7 least some investors made additional investments with Alexander.

8 12. When payment became due based on Alexander's represented length of the
9 investment, Alexander did not provide investors with their payments as promised. When investors
10 confronted Alexander about their investments, Alexander gave investors multiple excuses as to why
11 he did not have their money:

12 a) One investor and her family members made several investments in January
13 and February 2019. On April 1, 2019, when Alexander did not repay the investor as promised, she
14 sent him a text message that read, in part, "I have to speak my mind because it's causing some serious
15 issues between my husband and I ? [sic] If I don't see money [sic] I might have to take a legal advise!
16 [sic] We would like to keep good relationships with you." In response, Alexander stated in part, "I
17 will stay on top of this trust me. I am on your side. I wouldn't want to hurt you with this. You are
18 like family to me. If I have to I will pull from my IRA Acct. I will send a check to you," and "Your
19 funds have my personal guarantee." On April 2, 2019, Alexander texted the investor and told her "If
20 it doesn't hit account today, I sent you a check just in case." When the check did not arrive as
21 expected, the investor continued to text Alexander for updates. Alexander sent the investor multiple
22 assurances that he had mailed her a check. On April 8, 2019, Alexander told the investor he would
23 wire the money directly to her. Alexander and the investor continued to communicate, and Alexander
24 continued to provide excuses as to why the investor's principal had not been returned. As of July 3,
25 2019, the investor still had not received the check or the wire payment.
26

b) Alexander solicited one investor for a \$15,000 investment. When she told him that was too much, Alexander countered with \$7500. When she told Alexander that was also too much, he told her he did not want her to miss out on this opportunity and offered a \$5000 investment with a \$1000 return within 30 days. In January 2020, the investor gave Alexander a check for \$5000. In mid- to late April 2020, Alexander returned the initial \$5000 to the investor with a promise to give her \$1000 for the delay, in addition to the \$1000 return she was initially promised. Approximately two weeks later, Alexander gave the investor's husband only \$1000. The investor passed away to cancer shortly after, in May 2020.

c) Between June 29, 2018 and August 15, 2018, one investor gave Alexander \$168,390, a substantial portion of the investor's personal savings, in exchange for a promise of a 25% return within 3-4 weeks. Alexander told the investor he personally was in for over \$100,000. Alexander did not make any payments to the investor until a year after the original investment. The investor estimates Alexander still owes him at least \$60,000.

13. At least some investors did eventually receive some payments from Alexander; however, the majority of investors did not receive their full principal amount or any return on their investment. Alexander paid some investors via check, and others with cash.

14. Alexander gave at least two investors checks as payment. When the investors attempted to deposit the checks, the bank informed the investors the account on the check did not exist. At least one investor was charged a "no sufficient funds" fee as a result.

15. Alexander sent another investor a photograph of a check he purported to be the investor's payment. The investor never received the check.

16. Upon information and belief, Alexander used at least some of the investor's funds for personal and other expenses.

Alexander's Prior Legal Proceedings

17. Alexander has been a named defendant in at least 12 civil lawsuits in Maricopa County Superior Court between March 2000 and the present, including Maricopa County Superior

1 Court Cause Nos. CV2020-004955, filed April 22, 2020; CV2020-004954, filed April 22, 2020; and
2 CV2019-001768, filed February 25, 2019. On April 25, 2019, the court entered a judgment in the
3 amount of \$251,455.70 against Alexander in CV2019-001768.

4 18. The Plaintiffs in CV2020-004954 and CV2020-004955 alleged Alexander solicited
5 them to invest in his golf ball resale business. The Plaintiffs invested in Alexander's business in
6 November and December 2019, respectively. Alexander failed to pay the Plaintiffs as promised.
7 Additionally, the Plaintiffs alleged Alexander had no intention of using their investments for the
8 purchase and resale of golf balls, but rather for personal and other expenses. Alexander failed to
9 answer the complaints, and on June 25, 2020, the court entered a judgment of default in the amount
10 of \$24,437.44 in CV2020-004954 and \$19,231 in CV2020-004955.

11 19. Alexander failed to disclose to investors the civil lawsuits pending during the relevant
12 time period.

13 20. On May 24, 2005, Alexander was indicted in the United States District Court for the
14 District of Arizona Cause No. 2:05-CR-00472-DGC-1 on 66 counts including conspiracy, wire fraud,
15 mail fraud, and money laundering. The indictment alleged that Alexander and his company, R&S
16 Marketing, told investors they were in the business of buying excess goods and pharmaceutical drugs
17 from manufacturers and reselling it overseas. Instead of using investment funds as purported,
18 Alexander conducted a Ponzi scheme involving 50 investors. On November 13, 2006, Alexander
19 pled guilty to one count of Wire Fraud. He was sentenced to a 96-month prison term and ordered to
20 pay \$9,923,225.55 in restitution.

21 21. Alexander failed to disclose to investors his prior felony conviction or restitution
22 order.

23 22. On April 5, 2004, Alexander filed for Chapter 7 bankruptcy in the United States
24 Bankruptcy Court for the District of Arizona Cause No. 2:04-bk-05702. The case was discharged on
25 April 3, 2006.

26 23. Alexander failed to disclose to investors his prior bankruptcy.

IV.

VIOLATION OF A.R.S. § 44-1841

(Offer and Sale of Unregistered Securities)

24. From on or about June 2018 to present, Respondent has been offering or selling securities in the form of notes and/or investment contracts, within or from Arizona.

25. The securities referred to above are not registered pursuant to Articles 6 or 7 of the Securities Act.

26. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

27. Respondent is offering or selling securities within or from Arizona while not registered as a dealer or salesman pursuant to Article 9 of the Securities Act.

28. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

29. In connection with the offer or sale of securities within or from Arizona, Respondent is directly or indirectly: (i) employing a device, scheme, or artifice to defraud; (ii) making untrue statements of material fact or omitting to state material facts that are necessary in order to make the statements made not misleading in light of the circumstances under which they are made; or (iii) engaging in transactions, practices, or courses of business that operate or would operate as a fraud or deceit upon offerees and investors. Respondent's conduct includes, but is not limited to, the following:

a) Respondent told investors their investment was in his golf ball resale business when in reality, Respondent used at least some of the funds for personal and other expenses.

b) Respondent failed to disclose his civil lawsuits, including lawsuits related to his golf ball resale business, pending during the relevant time period.

c) Respondent failed to disclose his prior felony conviction for wire fraud.

d) Respondent failed to disclose his prior bankruptcy.

30. This conduct violates A.R.S. § 44-1991.

VII.

TEMPORARY ORDER

Cease and Desist from Violating the Securities Act

THEREFORE, based on the above allegations, and because the Commission has determined that the public welfare requires immediate action,

IT IS ORDERED, pursuant to A.R.S. § 44-1972(C) and A.A.C. R14-4-307, that Respondent, Respondent's agents, servants, employees, successors, assigns, and those persons in active concert or participation with Respondent CEASE AND DESIST from any violations of the Securities Act.

IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in effect for 180 days unless sooner vacated, modified, or made permanent by the Commission.

IT IS FURTHER ORDERED that if a request for hearing is made, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED that this Order shall be effective immediately.

VIII.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

1. Order Respondent to permanently cease and desist from violating the Securities Act pursuant to A.R.S. § 44-2032;

2. Order Respondent to take affirmative action to correct the conditions resulting from Respondent's acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;

3. Order Respondent to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order Respondent to pay the state of Arizona administrative penalties, pursuant to A.R.S. § 44-1961;

5. Order any other relief that the Commission deems appropriate.

IX.

HEARING OPPORTUNITY

Each Respondent may request a hearing pursuant to A.R.S. § 44-1972 [44-3212] and A.A.C. Rule 14-4-307. **If Respondent requests a hearing, the requesting Respondent must also answer this Temporary Order and Notice.** A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order and Notice. The requesting Respondent must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at <http://www.azcc.gov/hearing>.

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 10 to 30 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. **Unless otherwise ordered by the Commission, this Temporary Order shall remain effective from the date a hearing is requested until a decision is entered.** After a hearing, the Commission may vacate, modify, or make permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent Order may include ordering restitution, assessing administrative penalties, or other action.

1 If a request for hearing is not timely made, the Division will request that the Commission make
2 permanent this Temporary Order, with written findings of fact and conclusions of law, which may
3 include ordering restitution, assessing administrative penalties, or other relief.

4 Persons with a disability may request a reasonable accommodation such as a sign language
5 interpreter, as well as request this document in an alternative format, by contacting Carolyn D. Buck,
6 ADA Coordinator, voice phone number (602) 542-3931, e-mail cdbuck@azcc.gov. Requests should
7 be made as early as possible to allow time to arrange the accommodation.

8 **X.**

9 **ANSWER REQUIREMENT**

10 Pursuant to A.A.C. R14-4-305, if Respondent requests a hearing, the requesting Respondent
11 must deliver or mail an Answer to this Temporary Order and Notice to Docket Control, Arizona
12 Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days
13 after the date of service of this Temporary Order and Notice. Filing instructions may be obtained
14 from Docket Control by calling (602) 542-3477 or on the Commission's Internet website at
15 <http://www.azcc.gov/hearing>.


16 Additionally, the answering Respondent must serve the Answer upon the Division. Pursuant
17 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
18 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
19 addressed to Elizabeth Schmitt.

20 The Answer shall contain an admission or denial of each allegation in this Temporary Order
21 and Notice and the original signature of the answering respondent or the respondent's attorney. A
22 statement of a lack of sufficient knowledge or information shall be considered a denial of an
23 allegation. An allegation not denied shall be considered admitted.

24 When the answering Respondent intends in good faith to deny only a part or a qualification
25 of an allegation, the Respondent shall specify that part or qualification of the allegation and shall
26 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

1 The officer presiding over the hearing may grant relief from the requirement to file an
2 Answer for good cause shown.

3 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 4th day of
4 November 2020.


Wendy Coy
Assistant Director of Securities